

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

In the Matter of Application 23273
of WILLIAM H. and LOUISE DE CARLI
to Appropriate from Hawkins Creek
in Trinity County

Decision 1380

DECISION APPROVING APPLICATION

William H. and Louise De Carli having filed Application 23273 for a permit to appropriate unappropriated water; a protest having been received; a public hearing having been held before the State Water Resources Control Board on September 22, 1970; applicants and protestant having appeared and presented evidence; the evidence received at the hearing having been duly considered, the Board finds as follows:

Substance of the Application

1. Application 23273 is for a permit to appropriate 3,000 gallons per day by direct diversion, year round, for irrigation, domestic and fire protection purposes from Hawkins Creek in Trinity County. During the hearing the applicants agreed to delete irrigation as a purpose of use as the proposed irrigation is on an area less than one-half acre and will therefore be covered by domestic use (RT 7). The point of diversion is to be located within the NW $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 21, T6N, R6E, HB&M.

Applicants' Project

2. The applicants propose to install approximately 1,000 feet of 2-inch pipe and divert water from Hawkins Creek by gravity for use at their residence which will include the irrigation of approximately one-quarter acre of lawn and garden.

Protest

3. Protestant Brousse Brizard diverts from Hawkins Creek approximately one-half mile below the applicants. He claims a pre-1914 appropriative right to use water from the creek for the irrigation of 6.5 acres, for stockwatering of approximately five head of cattle, and domestic use for approximately 10 people (Statement of Diversion and Use S 506). He has been diverting approximately 30 gallons per minute for these purposes (RT 24).

During the hearing, it became apparent that the protestant's concern is with the effect of the applicants' project upon a lower user of water from Hawkins Creek, the Trinity Development Company, which is served by the Trinity Village Water Company, rather than interference with his own use of water under his claimed right (RT 23, 24). No valid protest was filed by either of these companies.

Availability of Unappropriated Water

4. The applicants and protestant stipulated that an investigation of the project area be made by an engineer from the Board's staff and that his findings be made a part of the

record of the hearing subject to their comments (RT 33). An inspection made on March 17, 1971, found a flow of 6.22 cubic feet per second in Hawkins Creek at the Trinity Village Water Company's diversion approximately three-quarters of a mile below the protestant.

5. In an average water year there is a flow in the creek passing the protestant's point of diversion, year round (RT 3). The protestant acknowledges that during the critical summer months there is sufficient water available to meet his needs and the needs of the applicants if he does not bypass water for use by the Trinity Village Water Company (RT 24).

6. Unappropriated water is available to supply the applicants, and, subject to suitable conditions, such water may be diverted and used in the manner proposed without causing substantial injury to any lawful user of water.

7. The intended use is beneficial.

From the foregoing findings, the Board concludes that Application 23273 should be approved and that a permit should be issued to the applicants subject to the limitations and conditions set forth in the order following.

ORDER

IT IS HEREBY ORDERED that Application 23273 be, and it is, approved, and that a permit be issued to the applicants subject to vested rights and to the following limitations and conditions:

1. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 3,000 gallons per day, by direct diversion to be diverted year round. The equivalent of the continuous flow allowance by direct diversion for any 7-day period may be diverted in a shorter time if there be no interference with vested rights. The maximum amount diverted under this permit shall not exceed 1.7 acre-feet per year.

2. The maximum quantity herein stated may be reduced in the license if investigation warrants.

3. Actual construction work shall begin on or before nine months from date of permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted this permit may be revoked.

4. Said construction work shall be completed on or before **December 1, 1974.**

5. Complete application of the water to the proposed use shall be made on or before **December 1, 1975.**

6. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until license is issued.

7. All rights and privileges under this permit, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unrea-

sonable use, unreasonable method of use or unreasonable method of diversion of said water.

8. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

9. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

Adopted as the decision and order of the State Water Resources Control Board at a meeting duly called and held at Sacramento, California.

Dated: August 5, 1971

KERRY W. MULLIGAN
Kerry W. Mulligan, Chairman

E. F. DIBBLE
E. F. Dibble, Vice Chairman

NORMAN B. HUME
Norman B. Hume, Member

RONALD B. ROBIE
Ronald B. Robie, Member

ABSENT
W. W. Adams, Member